

CIRCUIT COURT OF MONTGOMERY COUNTY, MARYLAND

DAVID ATLEE PHILLIPS
P. O. Box 34320
Bethesda, Maryland 20014

Plaintiff

v.

Law No. 57691

WASHINGTON MAGAZINE, INC.
A Maryland Corporation

Serve:

Wilbert H. Sirota
Registered Agent
1300 Mercantile Bank
& Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

and

PHILIP MERRILL
312 Rugby Cove Road
Arnold, Maryland 21012

and

JOHN A. LIMPERT
5310 Worthington Drive
Glen Echo, Maryland 20768

and

GAETON FONZI
Address Unknown

Serve at:

Gold Coast Pictorial, Inc.
Sunrise Professional Building
915 Middle River Drive
Fort Lauderdale, Florida 33338

Defendants

DECLARATION

Count I
(Libel)

1. This Court has jurisdiction under Maryland Annotated Code, Courts and Judicial Proceedings, §§ 1-501, 6-102, 6-103 (1980 Repl. Vol.).

2. Venue in Montgomery County, Maryland, is proper under Maryland Annotated Code, Courts and Judicial Proceedings, §§ 6-201, 6-202 (1980 Repl. Vol.).

3. Plaintiff is an adult citizen of the United States and a resident of Montgomery County, Maryland.

4. Defendant Washington Magazine, Inc. is a corporation organized and existing under Maryland law, having its principal place of business in the District of Columbia. At all times pertinent hereto, defendant Washington Magazine, Inc. published a monthly magazine entitled The Washingtonian.

5. Defendant Philip Merrill is an adult citizen of the United States and a resident of Anne Arundel County, Maryland. At all times pertinent hereto, defendant Merrill was president of defendant Washington Magazine, Inc. and publisher of The Washingtonian.

6. Defendant John A. Limpert is an adult citizen of the United States and a resident of Montgomery County, Maryland. At all times pertinent hereto, defendant Limpert was editor of The Washingtonian.

7. Defendant Gaeton Fonzi is an adult citizen of the United States and is residing in the State of Florida. At all times pertinent hereto, defendant Fonzi was the author of an article which was published by defendant Washington Magazine, Inc. in the November, 1980 issue of The Washingtonian.

8. Said article was featured on the front cover of The Washingtonian's November, 1980 issue with the lead-in language, "No More Lies, No More Cover-Ups--This Is the True Story of My Search For WHO KILLED JFK?"

9. The November, 1980 issue of The Washingtonian was first distributed and circulated to subscribers on or about October 27, 1980. At that time, the primary area of circulation of The Washingtonian was the Commonwealth of Virginia, the District of Columbia and the State of Maryland. In addition, The Washingtonian was generally distributed, circulated, promoted for sale and sold to subscribers and newsstand readers across the nation.

10. Defendant Washington Magazine, Inc. actively promoted, publicized and advertised the November, 1980 issue of The Washingtonian in the Commonwealth of Virginia, the District of Columbia, the State of Maryland and elsewhere with the intent and purpose of obtaining the largest number of sales and largest amount of revenue possible.

11. On or about October 27, 1980, plaintiff was a retired employee of the Central Intelligence Agency, and he enjoyed a distinguished career record, name and reputation, including good will and esteem, among his associates, acquaintances, neighbors, friends and family.

12. The article authored by defendant Fonzi was entitled "Who Killed JFK?" Said article was intended to and did convey the impression that plaintiff had conspired to commit and committed felonies at various times during his CIA career.

13. Among the illegal and criminal acts charged against plaintiff in the said article were the following:

a. that, under the cover name "Maurice Bishop," plaintiff had conspired with Lee Harvey Oswald to assassinate President John F. Kennedy;

b. that, under the cover name "Maurice Bishop," plaintiff had conspired with other persons to obstruct justice in the assassination investigation of President John F. Kennedy;

c. that, under the cover name "Maurice Bishop," plaintiff had secretly supervised and directed the activities of a terrorist Cuban-exile group called "Alpha 66" in a manner designed to and which did interfere with, frustrate and impair U.S. foreign policy; and

d. that, under the cover name "Maurice Bishop," plaintiff had directed an assassination attempt against Fidel Castro in Cuba in 1961 and had conspired to murder Castro in Chile in 1971.

14. The aforesaid charges were false and defamatory and libelous per se. At the time defendants published the said article, the defendants

a. knew it was false, or

b. failed to take proper steps to ascertain whether it was true or false, and instead published it with reckless disregard of whether it was true or false, or

c. acted in a grossly irresponsible manner, without due consideration for the standards of information gathering and dissemination ordinarily followed by responsible parties in similar circumstances.

In addition, the said article was contrived, published and circulated with the purpose of maliciously intending to injure the plaintiff.

15. Said article also accused plaintiff of perjury and obstructing justice at various times as follows:

a. that plaintiff lied in sworn testimony before the United States House Select Committee on Assassinations when he said he had never used the name "Maurice Bishop" and did not know of anyone at the CIA who had;

b. that plaintiff lied in sworn testimony before the United States House Select Committee on Assassinations when he denied having known a Cuban exile leader named Antonio Veciana;

c. that plaintiff lied in sworn testimony before the U.S. House Select Committee on Assassinations when he denied making a payment of Two Hundred Fifty Thousand Dollars (\$250,000.00) to Antonio Veciana.

16. The aforesaid charges were false and defamatory.

17. Defendants Merrill and Limpert, knowing the contents of said article, caused it to be published in the November, 1980 issue of The Washingtonian. In so doing, defendants Merrill and Limpert recklessly attributed truthfulness to the false and libelous charges against plaintiff. Among the statements made in the "Editor's Notes" column of the November, 1980 issue of The Washingtonian were the following:

Finally, Fonzi's passion became our passion, and working with Alan Halpern, we decided to publish the story. If you read it, I think that you, too, will begin to feel that we

should find the answers to the death of President Kennedy, that we cannot go ahead as a nation if we don't know the truth that lies behind us....

A postscript: Former C.I.A. officer David Atlee Phillips is a main character in this story. Gaeton Fonzi suspects that Phillips is spymaster Maurice Bishop, but can never prove it.

18. Defendants made and published the foregoing false and libelous charges about plaintiff with actual malice.

19. As a result of the foregoing acts of defendants, plaintiff has been greatly injured and damaged in his distinguished name and reputation; he has suffered and is suffering great embarrassment, humiliation and mental anguish; he has been and is held in contempt, calumny, distrust and ridicule among the public, his associates, acquaintances, neighbors and friends; and he has been damaged in his writing and lecturing career.

WHEREFORE plaintiff demands that a judgment be entered against defendants and each of them in the amount of Fifteen Million Dollars (\$15,000,000.00) for compensatory damages, and Twenty Million Dollars (\$20,000,000.00) for punitive damages, plus the costs of this lawsuit.

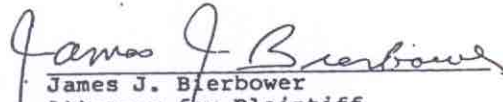
Count II
(Invasion of Privacy)

20. Plaintiff repeats and realleges the allegations of paragraphs 1 through 19 of Count I herein.

21. By reason of defendants' publishing and circulating the said article, plaintiff was and is held in public ridicule and contempt, and has been placed in a false light in the public eye.

22. As a result of the foregoing acts of defendants, plaintiff has been greatly injured and damaged in his distinguished name and reputation; he has suffered and is suffering great embarrassment, humiliation and mental anguish; he has been and is held in contempt, calumny, distrust and ridicule among the public, his associates, acquaintances, neighbors and friends; and he has been damaged in his writing and lecturing career.

WHEREFORE plaintiff demands that a judgment be entered against defendants and each of them in the amount of Fifteen Million Dollars (\$15,000,000.00) for compensatory damages, and Twenty Million Dollars (\$20,000,000.00) for punitive damages, plus the costs of this lawsuit.


James J. Bierbower
Attorney for Plaintiff
1625 K Street
Washington, D.C. 20006
(202) 347-1900

JURY ELECTION

True Copy Test
Howard M. Smith
Clerk

Plaintiff elects a trial by jury.


James J. Bierbower

CERTIFICATE

This to certify, pursuant to Rule 301(g) of the Maryland Rules of Procedure, that the undersigned's office address and telephone number are 1625 K Street, N.W., Washington, D.C. 20006, (202) 347-1900; that his home address and telephone number are 6001 Wilson Lane, Bethesda, Maryland 20034, (301) 320-5710; and that he is a member in good standing in the Maryland Bar.


James J. Bierbower